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FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

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SUE BEITIA, CLERK

ATTORNEY FOR PLAINTIFF
TASSA TORRES

IN THE UNITED STATES DISTRICT COURT

STATE OF HAWAII

TASSA TORRES;

Plaintiff,

vs.

THE CITY AND COUNTY OF HONOLULU,
M. Min, G. Kinosjita, Badge No.
2715; and A. Togami, Badge No.
735., Police Officers;

Defendants.

) CIVIL NO.

CV 12 00437 SOM

)

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) COMPLAINT FOR DAMAGES;

) DEMAND FOR JURY TRIAL;

) SUMMONS

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COMPLAINT FOR DAMAGES

COMES NOW THE PLAINTIFF, TASSA TORRES, through her attorney, Andre' Wooten, who hereby files this Complaint for Damages, due to the excessive force used in affecting the unnecessary arrest of Plaintiff'S brother Aaron Torres by these Defendants on February 20, 2012. During which arrest they Defendants suffocated and asphyxiated Aaron Torres causing his unnecessary and untimely death, despite the pleas of Plaintiff Tassa Torres and other family members for the Defendants to cease and desist their excessive actions, after handcuffing Aaron Torres, prior to Aaron Torres' death due to asphyxiation.

1. PARTIES

1. The Plaintiff TASSA TORRES is a female citizen of the United States and was at all times relevant a resident of the City and County of Honolulu, in the State of Hawaii.

2. Plaintiff, TASSA TORRES, is a sister of AARON TORRES, who hereby files this Complaint for Damages, due witnessing the excessive force used in the dubious and questionable and arguably false arrest of Plaintiff'S brother Aaron Torres by these Defendants on February 20, 2012, during which arrest, due to the use of excessive force, the Defendants suffocated and asphyxiated Aaron Torres causing his unnecessary and untimely death, despite the pleas of Plaintiff, Tassa TORRES, and other family members present for the Defendants to cease and desist their excessive actions, after handcuffing and leg shackling Aaron Torres significantly prior to Aaron Torres' death.

3. Defendant City and County of Honolulu, is the municipal corporation organized under the laws of the State of Hawaii to be the administrative department of the City and County of Honolulu, and therefore has the responsibility for the hiring, training, discipline, supervision and firing of the employees of the City and County of Honolulu including police officers employed by the City and County of Honolulu. The City and County of Honolulu is sued in it'S official capacity.

4. Defendant, M. Min, was an officer present when Plaintiff'S brother Aaron Torres, was seized and arrested against

his will, handcuffed and thrown to the ground, shackled, and continued to have pressed, leaned or sat upon Aaron Torres, after throwing Aaron Torres to the ground and continued to sit or press his weight on his body and prevent Aaron Torres from breathing, and or who did nothing to prevent these violations of Aaron Torres'S Constitutional rights, despite the verbal protests of Aaron Torres sisters and brothers, including Tassa Torres, who witnessed this police assault and asphyxiation of her brother.

At this time Defendant, M. Min, POLICE OFFICER # 1, was a resident of the City and County of Honolulu of the State of Hawaii, and he is sued in his personal capacity.

5. Defendant G. Kinosjita, Badge No. 2715, POLICE OFFICER # 2, was an officer present when Plaintiff'S brother Aaron Torres, was seized and arrested against his will, handcuffed and thrown to the ground, shackled, and continued to press, leaned or sit upon Aaron Torres, after throwing Aaron Torres to the ground and continued to sit or press his weight on Aaron Torres' body and prevent Aaron Torres from breathing. Officer G. Kinosjita, Badge No. 2715 and others officers who, after throwing Aaron Torres to the ground handcuffed, continued to sit or press their weight on his body and prevent Aaron Torres from breathing, and or who did nothing to prevent these violations of Aaron Torres'S Constitutional rights, despite the verbal protests of Aaron Torres sisters and brothers, including Tassa Torres, who

witnessed this police assault and strangulation of her brother. At this time Defendant, G. Kinosjita, Badge No. 2715, POLICE OFFICER # 2 was a resident of the City and County of Honolulu of the State of Hawaii, and he is sued in his personal capacity.

6. Defendant, A. Togami, Badge No. 735, POLICE OFFICER # 3, was an officer present when Plaintiff's brother Aaron Torres, was seized and arrested against his will, handcuffed and thrown to the ground, shackled, and then continued to press, leaned or sit upon Aaron Torres, after throwing Aaron Torres to the ground and continued to sit or press his weight on Aaron Torres' body and prevent Aaron Torres from breathing, after throwing Aaron Torres to the ground and handcuffed. Defendant, A. Togami, continued to sit or press his weight on Aaron Torres' body and prevent Aaron Torres from breathing, and or who did nothing to prevent these violations of Aaron Torres'S Constitutional rights, despite the verbal protests of Aaron Torres sisters and brothers, including Tassa Torres, who witnessed this police assault and strangulation of her brother. At this time Defendant, A. Togami, Badge No. 735, POLICE OFFICER # 3 was a resident of the City and County of Honolulu of the State of Hawaii, and he is sued in his personal capacity.

2. JURISDICTION

7. This court has jurisdiction of this action under 28 U.S.C. §§ 1343 and 1367; and the pendent jurisdiction over state

claims. Venue is proper pursuant to 28 U.S.C. § 1391(b). This action is brought pursuant to the First, Fourth, Fifth, Sixth, Eighth, Ninth, Twelfth, Thirteenth, and Fourteenth Amendments to the United States Constitution, as well as 42 U.S.C. §§ 1981, 1983, 1985, and 1988.

3. STATEMENT OF FACTS

8. At all times relevant to this Complaint, each individual defendant was acting within the course and scope of his employment.

9. At all times relevant to this Complaint, each defendant was acting under the color of state law.

10. On February 20, 2012, the Plaintiff, Tassa Torez was at home in the house that she shares with her grandmother, next to the family property with two houses that she and her siblings inherited equally from her father Sam Torres, when she heard loud voices outside and went to investigate and found three police officers arguing with her younger brother Aaron Torres. There had been no fight involving anyone on the property that night and she did not know why the officers were there.

11. Tassa Torez observed the three police officers arguing with her brother, and he was saying that there was no reason to arrest him and they should go away, and the officers were indicating that they were going to arrest Aaron Torres for something, that she never understood the what or why of.

12. The police officers told the family members to stay back while they grabbed Aaron Torres and handcuffed him while he was standing up. Then they threw him to the ground and jumped on his body, with one sergeant sitting on the back of the 5' 6" and 160 pound Aaron Torres, while another officer sat on his shoulders and neck. A third officer was sitting on and shackling Aaron's legs, while Aaron was yelling that they were hurting him.

13. The officers seemed to her to be holding her brother down on the ground while pressing on his body for what seemed like at least 30 minutes or so after they handcuffing him and threw him down to the ground. They kept telling him to stop moving and Aaron kept yelling they were hurting him.

14. Now it seems clear that he was just moving trying to breathe, because of the way the officers pressed his face into the dirt.

15. The officers finally realized they had sat on Aaron for too long, after Aaron stopped moving and he went still.

16. After he moved for the last time, the officers turned him over and I saw that there was dirt in Aaron's nose and mouth from the way the officers held his face in the dirt, while they sat on him.

17. At this point the police officers, called for the Ambulance truck, which took so long they did not even really try

to revive Aaron, and took their time.

18. After the Aaron Torres was handcuffed and shackled on the ground, the Defendant Police Officers 1-3 continued to press his head and face into the dirt, while continuing to press on his chest and throat was too many minutes, as Aaron Torres was handcuffed and shackled at the time and could not hurt anyone.

19. The Plaintiff Tassa Torez saw her brother Aaron Torres die at the scene in front of his own house, even though Plaintiff Tassa Torez is unaware there is any evidence that he was accused of any crime at the time.

20. Neither Defendant Police Officers M. Min, G. Kinosjita, Badge No. 2715 and A. Togami, Badge No. 735, nor any other HPD Police Officers had the probably cause to arrest the Plaintiff. The Plaintiff had not committed any crime and had simply stated that he had the right to remain at his home on the premises. The HPD Defendants Officers M. Min, G. Kinosjita, Badge No. 2715 and A. Togami, Badge No. 735, were aware that they did not have the necessary probable cause to arrest the Plaintiff.

21. The HPD Defendants Officers M. Min, G. Kinosjita, Badge No. 2715 and A. Togami, Badge No. 735, falsely arrested the Plaintiff'S, brother, Aaron Torres, and falsely imprisoned him. Defendants HPD Officers M. Min, G. Kinosjita, Badge No. 2715 and A. Togami, Badge No. 735, used force excessively and punitively out of anger.

22. All of the preceding paragraphs are included by reference in the following causes of action and incorporated as if set forth fully herein.

4. CAUSES OF ACTION

CAUSES OF ACTION 1

1. FIRST AND FOURTH AMENDMENT CLAIMS UNDER 1983

23. The Individual Defendant Police Officers, M. Min, G. Kinosjita, Badge No. 2715 and A. Togami, Badge No. 735, and each of them, committed police misconduct when they intentionally and maliciously caused the Plaintiff's brother to be arrested without probable cause or a lawful warrant. The Defendants continued to falsely imprison the Plaintiff, despite his protests of innocence and incredulity.

24. The Defendants Officers M. Min, G. Kinosjita, Badge No. 2715 and A. Togami, Badge No. 735, caused Plaintiff's brother Aaron Torres, to be falsely arrested imprisoned and subjected to excessive force, which caused his death due to asphyxiation, after the Plaintiff Tassa Torres and Aaron Torres asked the officers why they were continue to use excessive force on Aaron Torres after he had been handcuffed and shackled and could no longer do anything to anyone and she asked them to stop. The officers refused to stop or to answer and kept telling Aaron Torres to stop moving and told his family members to back away from them and him while they choked him.

25. The Defendant Officers M. Min, G. Kinosjita, Badge No.

2715 and A. Togami, Badge No. 735, caused the death of Aaron Torres that night and other very real painful emotional injuries unnecessarily to the Plaintiff and her family, due to Aaron's death in front of their eyes, in clear violation of Aaron Torres and Plaintiff's First Amendment Rights to Free Speech and Fourth and Fourteenth Amendment right to be free from illegal searches and seizures.

26. The Defendant's malicious actions were done in violation of the Plaintiff Tassa Torres and her brother Aaron Torres's First, Fourth, Fifth and Fourteen Amendment rights.

CAUSES OF ACTION 2

2. NEGLIGENCE

27. The Defendants, Officers M. Min, G. Kinosjita, Badge No. 2715 and A. Togami, Badge No. 735, and each of them, negligently and or intentionally and maliciously sought to deprive or recklessly deprived the Plaintiff's, brother Aaron Torres, of his Fourth and Fourteenth Amendment rights to Due Process and Equal Protection of the Law right before her very eyes.

28. Despite the fact the Plaintiff Tassa Torres, cautioned the Defendant Police Officers who were arresting her brother Aaron Torres, that they had restraining him on the ground after handcuffing Aaron Torres long enough, and that they were hurting him. The officers negligently continued to assault Aaron Torres, after he was handcuffed and shackled while holding Aaron

Torres down with the superior weight of their bodies with malicious excessive force, causing Aaron Torres death due to asphyxiation.

29. The Defendants negligently, recklessly and maliciously ignored the warnings and pleadings of Plaintiff Tassa Torres, and her brothers and sisters to ceased and desist from applying excessive force to Aaron Torres while he was handcuffed on the ground.

30. The Defendant'S negligently malicious actions were done in violation of the Plaintiff and her brother Aaron Torres'S First, Fourth, Fifth and Fourteen Amendment rights, and the violent death of her brother Aaron before her eyes despite her protests to the officers to get off of him and stop, after they threw him handcuffed to the ground, caused Aaron Torres death and severe emotional distress to the Plaintiff Tassa Torres.

CAUSES OF ACTION 3
3. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
- PENDANT STATE CLAIM

31. The Defendants, M. Min, G. Kinosjita, Badge No. 2715; A. Togami, Badge No. 735, all of them and each of them jointly and severally arrested the Plaintiff'S brother Aaron Torres, without probable cause, and then they committing further misconduct by using excessive unnecessary force upon the Plaintiff'S brother, causing his death by asphyxiation.

32. The Defendants M. Min, G. Kinosjita, Badge No. 2715; A.

Togami, Badge No. 735 each of them knew or should have known that they did not have the probable cause to arrest the Plaintiff's brother Aaron Torres.

33. The Defendants, M. Min, G. Kinosjita, Badge No. 2715; A. Togami, Badge No. 735, each of them knew or should have known that they were using excessive force upon Aaron Torres in causing the arrest of the Plaintiff's brother Aaron Torres.

34. The Defendants, M. Min, G. Kinosjita, Badge No. 2715; A. Togami, Badge No. 735 continued to use excessive force in manhandling and suffocating Plaintiff's brother Aaron Torres, after he was handcuffed, thrown to the ground and shackled, and after the Plaintiff Tassa Torres, and her brothers and sisters pleaded with the defendant officers to get off of Aaron Torres and cease and desist from physically abusing him, after he was handcuffed and thrown to the ground and shackled.

35. The Actions of the Defendants, M. Min, G. Kinosjita, Badge No. 2715; A. Togami, Badge No. 735, each of them was outrageous, excessively brutal and violent and shocking to the conscience, as that force caused the death of the Plaintiff's brother Aaron Torres right before his sister, Tassa Torres' very eyes, due to this assault which she pleaded with the police officers to stop.

36. The Defendants M. Min, G. Kinosjita, Badge No. 2715; A. Togami, Badge No. 735 actions were a maliciously illegal assault upon the Plaintiff's brother which caused his death due to

asphyxiation at that time before her very eyes and despite her verbal tearful and fearful protests to the officers to cease and desist their assaultive actions which killed her brother, and caused the Plaintiff Tassa Torres severe immediate and permanent emotional distress.

37. Plaintiff's brother Aaron Torres verbally protested the treatment the Defendant officers subjected him to right before they killed him. It is thus apparent that the officers asphyxiated Aaron Torres in response to his and his family's exercising their First Amendment rights to protest the police officers illegal and excessive assault upon Aaron Torres, in violation of his 4th Amendment right to be free from unreasonable search and seizure in a shocking and outrageously abusive manner, all out of proportion, as Aaron was handcuffed and shackled and posed no real physical threat to anyone after that.

4. CAUSES OF ACTION 4
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS - PENDENT STATE ACTION

38. The Defendants, M. Min, G. Kinosjita, Badge No. 2715; A. Togami, Badge No. 735 had a legal duty to protect the Plaintiff and her brother Aaron Torres, from false arrest, excessive force and death by asphyxiation and false imprisonment, and serious injury. The Defendants negligently or wantonly or recklessly failed to fulfill that duty, causing Plaintiff Tassa Torres severe emotional distress.

39. The actions of Defendants M. Min, G. Kinosjita, Badge

No. 2715; A. Togami, Badge No. 735 constituted either negligent or intentional assault and battery, which lead to the death of Aaron Torres, the Plaintiff's brother despite her protests to the officers, right before her eyes.

40. The actions of the Defendants, jointly and severally, constituted negligent conduct and assault and battery, which lead to the death of Plaintiff's brother Aaron Torres and caused serious physical and emotional injury to the Plaintiff, Tassa Torres.

41. The Defendants, each of them jointly and severally.

5. CAUSE OF ACTION 5
RESPONDEATE SUPERIOR

42. Defendant City and County of Honolulu, is the municipal corporation organized under the laws of the State of Hawaii to be the administrative department of the City and County of Honolulu, and therefore has the responsibility for the hiring, training, discipline, supervision and firing of the employees of the City and County of Honolulu including police officers employed by the City and County of Honolulu.

43. The City and County of Honolulu is responsible for the torts of it's employees mentioned in the above paragraphs, as their employer in the State of Hawaii under the legal principals of Respondeate Superior in this case.

6. DEMAND FOR PUNITIVE DAMAGES

44. The Defendants, M. Min, G. Kinosjita, Badge No. 2715;

A. Togami, Badge No. 735 each of them knew or should have known that they were using excessive force upon Aaron Torres in causing the arrest of the Plaintiff's brother Aaron Torres.

45. The Plaintiff, Tassa Torres and Plaintiff's brother Aaron Torres and others witnesses verbally protested the treatment the Defendant officers subjected Aaron Torres to right before they killed him.

46. It is thus apparent that the officers asphyxiated Aaron Torres in response to his and his family's exercising their First Amendment rights to protest the police officers illegal and excessive assault upon Aaron Torres, in violation of his 4th Amendment right to be free from unreasonable search and seizure.

47. The Actions of the Defendants, M. Min, G. Kinosjita, Badge No. 2715; A. Togami, Badge No. 735 each of them was outrageous, excessively brutal and violent and shocking to the conscience, as that force caused the death of the Plaintiff's brother Aaron Torres right before her very eyes, due to this assault, which she pleaded with the police officers to stop. Therefore Plaintiff gives notice that she will demand punitive damages for this shockingly outrageous conduct, for all causes of action for which punitive damages are assessable.

**7. NEGLIGENT TRAINING AND OR SUPERVISION
AGAINST THE CITY AND COUNTY OF HONOLULU**

48. The Plaintiff incorporates all of the preceding paragraphs in this count.

49. The Plaintiff is informed and believes that the Defendant City and County of Honolulu and the commanding officer on the scene that night failed to train, properly supervise and discipline the three officers named above, who used excessive force upon Aaron Torres, despite the verbal warnings and protests of his sister, Tassa Torres on February 20, 2012 and caused his death by asphyxiation.

50. The Plaintiff is informed and believes that the Defendant City and County of Honolulu and the commanding officer on the scene that night failed to train and properly supervise and or discipline the three officers named above who used excessive force upon Aaron Torres, when the three officers acted outside of the scope of their employment and authority and cause Aaron Torres death by asphyxiation.

51. The Defendant City and County of Honolulu should have known about the need to properly train, supervise and discipline Defendants, M. Min, G. Kinosjita, Badge No. 2715; A. Togami, Badge No. 735 and exercise control over these officers and failed to do so.

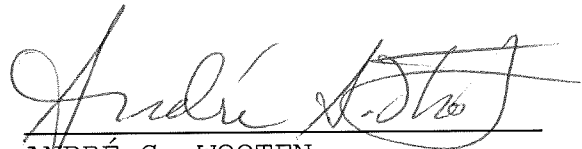
52. Defendants, M. Min, G. Kinosjita, Badge No. 2715; A. Togami, Badge No. 735 acted with malice.

8 REQUEST FOR RELIEF

WHEREFORE, the Plaintiff respectfully requests this Court to grant the following relief:

- (a) A declaratory judgment be issued that the Plaintiff's rights have been violated as alleged.
- (b) A preliminary and permanent injunction to have the Defendants desist from such acts.
- (c) An award to the Plaintiff for compensatory, special, statutory, liquidated, exemplary, and punitive damages and other monetary relief in the amount of \$10,000,000.00, and prejudgment interest entered to the maximum extent permitted by law.
- (d) An award to the Plaintiff for all costs and attorney's fees arising from this litigation.
- (e) Any other relief that this Court deems appropriate.

Dated: Honolulu, Hawaii, July 27, 2012.



ANDRÉ S. WOOTEN
Attorney For Plaintiff
TASSA TORRES